

CLAIM OF THE NEW YORK INDIANS.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

IN RESPONSE TO

RESOLUTION OF THE SENATE OF JANUARY 3, 1901, RELATIVE
TO MONEY PAID BY THE UNITED STATES UPON THE CLAIM OF
THE NEW YORK INDIANS FOR COMPENSATION FOR LANDS IN
KANSAS.

JANUARY 15, 1901.—Referred to the Committee on Indian Affairs and ordered to be
printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 14, 1900.

SIR: I have the honor to acknowledge the receipt of the following
resolution of the Senate, dated the 3d inst:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform
the Senate what sums of money, if any, have been paid by the United States upon
the claim of the New York Indians for compensation for lands in Kansas, growing
out of the treaty concluded at Buffalo Creek on January fifteenth, eighteen hundred
and thirty-eight, or subsequent treaties; and if any part of said claims have been
paid, to inform the Senate to what person or persons such sums were paid, and
upon what authority they were paid, and to transmit to the Senate a copy of all
powers of attorney, or other authority upon which said sums, if any, were paid.

In response thereto I transmit herewith a copy of a report of the
12th instant, from the Commissioner of Indian Affairs, showing that
as the money appropriated for the payment of these claims has never
been entered upon the books of his office, he is unable to furnish the
information called for.

I also inclose a copy of Department letter of March 21, 1900, trans-
mitting to the Secretary of the Treasury, in view of the opinion of
the Comptroller "that the act of July 31, 1894, requires the account
for the judgment of the Court of Claims in favor of the New York
Indians to be examined and certified by the Auditor for the State and
other Departments," the claims of certain attorneys for services rendered
in the prosecution of said claims.

I also transmit a copy of Indian Office letter of March 26, 1900, on Senate bill 1639, relative to this matter, referred to in the Commissioner's report, and of Département letter of March 28 last, forwarding the same to the chairman of the Committee on Indian Affairs, United States Senate.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 12, 1901.

SIR: I have the honor to acknowledge receipt by Department reference of the 5th instant of a copy of the following Senate resolution adopted January 3, 1901, viz:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the Senate what sums of money, if any, have been paid by the United States upon the claims of the New York Indians for compensation for lands in Kansas, growing out of the treaty concluded at Buffalo Creek on January fifteenth, eighteen hundred and thirty-eight, or subsequent treaties; and if any part of said claims have been paid, to inform the Senate to what person or persons such sums were paid, and upon what authority they were paid, and to transmit to the Senate a copy of all powers of attorney or other authority upon which said sums, if any, were paid.

In reply I have to state that as the money appropriated for the payment of the claims referred to in said resolution has never been entered upon the books of this office, the office is not in a position to furnish the information called for.

Claims for attorneys' fees aggregating \$249,834.04 were filed in this office for settlement; but in accordance with a decision of the Comptroller of the Treasury, dated March 16, 1900, these claims and other papers filed in this office in connection with the matter were forwarded to the Secretary of the Interior, March 21, 1900, for transmittal, in his discretion, to the Auditor for the State and other Departments.

In this connection attention is invited to office report to the Department of March 26, 1900, on Senate bill 1639, relating to this matter, recommending that the matter be presented to Congress and that body urged to enact the legislation proposed. So far as this office is advised no action has been taken by Congress, and as it seems desirable that something should be done toward ascertaining who the beneficiaries of the judgment are, it is respectfully suggested, unless there be some reason to the contrary, that the Department urge upon Congress the propriety of acting in the premises.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 26, 1900.

SIR: I am in receipt, by your reference of the 20th instant, for report, of S. 1639, entitled "A bill making appropriations to pay the

judgment of the Court of Claims in favor of the New York Indians, and providing for distribution of the same."

In reply I have the honor to state that this office, on the fourth day of January, reported on a similar bill to this, being House bill 2562, since which date the amount of the judgment has been appropriated in the act of Congress approved February 9, 1900, providing appropriations for urgent deficiencies. The amount involved in the judgment is \$1,998,776.46.

In said report a new form of a bill was submitted for the consideration of Congress, with the following closing paragraph:

And the Secretary of the Interior is directed to withhold from distribution among said Indians so much of any moneys due them by reason of said judgment as may be necessary to pay attorneys' fees due for services rendered in said litigation, under approved contracts, and to pay the same over to those lawfully entitled thereto.

And the Secretary of the Interior is further authorized and directed to withhold an additional sum from the moneys hereby appropriated, not exceeding \$10,000, and to apply it in the payment of expenses necessary in ascertaining the beneficiaries of said judgment and the payment thereto of the sums properly payable. And the Secretary of the Interior is further authorized and directed to cause the amount remaining of said judgment, after deducting the cost and expenses herein directed to be paid, to be paid and distributed to the persons entitled thereto, under such regulations as he shall prescribe.

Since that report was made the Comptroller of the Treasury has decided that the accounts arising from these judgments should be settled by the Auditor for the State and other Departments, and not by the Auditor for the Interior Department, to whom all accounts of this character have heretofore been sent; although, in the opinion of this office, as expressed in a letter to the Department of the 12th instant, the determination of who are the beneficiaries is a function belonging to the administrative office, and all the claims or accounts arising from said judgment should come before that office for administrative examination.

Under the Comptroller's decision, the claims of the attorneys in the case, amounting to \$249,843.04, were forwarded to the Department on the 21st instant for transmission to the Auditor for the State and other Departments, where they are probably now pending.

It is immaterial to this Office whether the attorneys' fees are settled through the Auditor for the State and other Departments or the Auditor for the Interior Department, but it is respectfully submitted that the determination of who the beneficiaries are, under the judgment, is, under both law and precedent, a function of the Interior Department.

In view of these circumstances, it is the opinion of this Office that the amendment proposed should be changed to read as follows:

Be it enacted, etc., That the Secretary of the Interior is authorized and directed to withhold from the amount appropriated by the act of February 9, 1900, to pay the judgment of the Court of Claims in favor of the New York Indians, a sum not exceeding \$10,000, and to apply it in the payment of expenses necessary in ascertaining the beneficiaries of said judgment and the payment thereto of the sums properly payable. And the Secretary of the Interior is further authorized and directed to cause the amount remaining of said judgment, after deducting the cost and expenses herein directed to be paid, to be paid and distributed to the persons entitled thereto, under such regulations as he shall prescribe.

It is important that action be taken at once if this matter is to remain in the Interior Department, and I therefore urge that it be made special. As the Office is advised that the matter is also pending before the House Committee on Indian Affairs, in order to facilitate

business I have the honor to request that this report be sent to that committee as well as to the Senate committee.

The bill is respectfully returned herewith.

Very respectfully,

W. A. JONES, *Commissioner*.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,

Washington, March 21, 1900.

SIR: I have the honor to transmit, in view of the opinion of the Comptroller of the Treasury "that the act of July 31, 1894, requires that the account for the judgment of the Court of Claims in favor of the New York Indians be examined and certified by the Auditor for the State and other Departments," the claims of certain attorneys for services rendered in the prosecution of said claim, which received my approval on the 5th instant.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,

Washington, March 28, 1900.

SIR: I have the honor to be in receipt, by your reference of the 15th instant, of S. 1639, "A bill making appropriation to pay the judgment of the Court of Claims in favor of the New York Indians, and providing distribution of the same."

In reply, I have to state that an appropriation to pay said judgment was made by the act of Congress approved February 9, 1900 (Public—No. 14, p. 23), and that part of the proposed legislation is therefore unnecessary.

I transmit for your information a copy of a letter of the 26th instant from the Commissioner of Indian Affairs, to whom the matter had been referred for consideration, who calls attention to a proposed bill, which was submitted to the Department with his letter of January 4, last, in the matter of the payment for legal services rendered by attorneys under approved contracts, and also in the payment of expenses necessary to be incurred in the ascertainment of the beneficiaries of the judgment in question, to which your attention is respectfully invited.

In lieu of the legislation then proposed the Commissioner now proposes, in view of the decision of the Comptroller, referred to by the Commissioner, the enactment of a law as per draft on page 3 of his letter, which meets with my approval, providing for the payment of the expenses last named and also for the distribution of the remainder of said judgment by the Secretary of the Interior among the persons ascertained by him to be entitled, under such regulations as he shall prescribe.

This judgment represents a claim growing out of a treaty made in 1838 with the New York Indians, comprising some eight or nine nations or tribes, originally numbering more than 5,000 souls. Most of these parties have doubtless passed away, and the duty is devolved

upon the Government and its agents of determining the beneficiaries of the large sum to be distributed.

The office of the Commissioner of Indian Affairs is the depository of the records, papers, etc., pertaining to all Indian matters, and has in its possession all records and data relating to these Indians from the time of the treaty down to the present.

Therefore, no other Department seems so well equipped as this to discharge the duty of determining the beneficiaries of the fund in question and their varied interests, and I am of the opinion that the adjudication should be left to this Department and the Auditor for the Interior Department, and commend the proposed legislation to your consideration.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

Hon. JOHN M. THURSTON,
Chairman Committee on Indian Affairs,
United States Senate.

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